

Underground Storage Tank Provisions Of the Federal Energy Act of 2005

On August 8, 2005, President Bush signed into law the Energy Policy Act of 2005. Title XV, Subtitle B of this Act is entitled Underground Storage Tank Compliance Act of 2005. This law significantly impacts federal and state underground storage tank programs and will require major changes to the programs. These changes will impact both public and private owners of underground storage tank facilities.

The focus of the Energy Act provisions is on preventing releases from underground storage tank systems. The public records provisions will require implementation by August 2006; others will require implementation in subsequent years.

The following are some of the most significant provisions.

Inspecting Underground Storage Tanks

States receiving EPA funding (Massachusetts receives such funding) must conduct on-site inspections of all underground storage tank facilities that have not been inspected since December 22, 1998. These inspections must be conducted no later than August 2007. Thereafter, states must inspect these facilities at least once every three years. The Environmental Protection Agency (EPA) may grant an additional year to complete the first three-year inspection cycle. A number of states, including Massachusetts are considering requiring tank owners and operators to hire third party inspectors to complete the tri-annual inspections.

Operator Training

States receiving EPA funding must develop state specific requirements for the training of three separate classes of operator IE: owner, manager, and employee. All of these employees will be required to have job specific training related to underground storage tanks. Massachusetts as well as other states are looking to industry and third parties to develop the actual training.

Public Records

States receiving EPA funding must maintain and update at least annually, and make available to the public records of regulated underground storage tanks. EPA will determine the manner and form for the information. The information must contain the number, source, and causes of underground storage tank release, the record of compliance and information on equipment failures. Much of this information is already available on the Department of Fire Services website www.mass.gov/ust.

Fuel Delivery Prohibition

States receiving EPA funding must develop guidelines to implement delivery prohibition to underground storage tanks. In Massachusetts the authority to prohibit delivery already exists in Massachusetts General Law Chapter 148 § 38G. Additional procedures for identifying prohibition criteria, and owner notification will need to be developed. The procedures must be in place no later than August 2007.

Secondary Containment or Financial Responsibility

All new or replacement tanks, piping and dispenser systems located within 1000 feet of a community water supply or drinking water well must have secondary containment with interstitial monitoring **OR** the manufacturer and or installer of the tanks, piping, and dispenser systems must maintain evidence of financial responsibility ...”in order to provide for the costs of corrective action directly related to releases caused by improper manufacturer or installation.” Many states including Massachusetts are considering the secondary containment option. Requirements must be in place no later than February 8, 2007.

Certification of Tank Installers/Tank Installations

All underground storage tank systems will be required to be installed by certified or licensed /certified people, or be certified by certified/licensed individuals. Private certification services currently exist for tank installers. Massachusetts along with other states is considering adopting this private certification system. Requirements must be in place no later than February 8, 2007.

The Department of Fire Service is currently working with the EPA and stake holders (UST trade organizations, fire services, Board of Fire Prevention Regulations) to define the issues, and propose solutions. For further information you may contact Code Compliance & Enforcement Supervisor Dave Beaudin at 978-567-3711.